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APPLICATION NO.	FILING DATE 98	HARPER FIRST NAMED INVENTOR	ATTORNEY DOCKET NO. P-7726
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MEDTRONIC INC
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MINNEAPOLIS MN 55432

QM31/0428

EXAMINER BLYVEIS, D

ART UNIT 3753	PAPER NUMBER
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DATE MAILED: 04/28/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/070,269

Applicant(s)
Harper

Examiner
Deborah Blyveis

Group Art Unit
3763



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-28 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Apr 30, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3763

Drawings

1. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 12, and 16 the female Luer connector has as axis that is not adequately defined so that the scope of the claim can be ascertained. From the wording of the claims the axis can be in many different directions.

In claim 11, there is no antecedent basis for “the end of the protrusion.”

In claim 19, the means for fluidly connecting has as axis that is not adequately defined so that the scope of the claim can be ascertained. From the wording of the claims, the axis can be in many different directions. Furthermore, there is no antecedent basis for “said Luer connector.”

Art Unit: 3763

In claim 20, the second axis of the second conduit has as axis that is not adequately defined so that the scope of the claim can be ascertained. From the wording of the claims, the axis can be in many different directions.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10 and 12-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Brightbill.

Brightbill discloses a hollow barrel (44) with an axis coaxial with the lumen. A connection protrusion (35), a pair of anchoring protrusions with a suturing hole (on 44), a female Luer connector (46, 48, 50) that has an axis that is not coaxial with the barrel axis that is coaxial with the lumen. The Luer connector on 48 has an axis (y-axis) that is not coaxial with the barrel axis that is coaxial with the lumen. Furthermore the Luer connector on 48 is equidistance for the anchoring protrusions. The Luer connectors on 46 and 50 are closer to one anchoring protrusion than another. The female Luer axis intersects the barrel axis at an angle of about 30 degrees, see fig. 1 and claim 1.

Art Unit: 3763

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. in view of Brightbill.

Thompson et al. discloses the inventions substantially as claimed. It discloses a hollow barrel (24) with an axis coaxial with the lumen. A connection protrusion (16) with a bulbous end (near 18), a pair of anchoring protrusions (28), a connector (26) that has an axis that is not coaxial with the barrel axis that is coaxial with the lumen. The connector has an axis (y-axis) that is not coaxial with the barrel axis that is coaxial with the lumen, see figs. 1 and 3. However, it is not stated that the connector is a Luer connector.


Brightbill discloses the use of a Luer connector because they are standard in the art and connect to many devices.

It would have been obvious to one of ordinary skill in the art to make the connector in Brightbill a Luer connector so that it would connect to many devices.

Art Unit: 3763

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fuson et al, Nordstrom, Kohenen et al., Fuchs, Erskine, and Martin et al. disclose analogous devices.
9. Questions regarding faxes or the status of this application should be directed to the receptionist whose telephone number is (703) 308-0858.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah Blyveis whose telephone number is (703) 308-2110. On April 1, 1999, art unit 3734 became art unit 3763, and all correspondence should be addressed accordingly.


WYNN WOOD COGGINS
SUPERVISORY PATENT EXAMINER

d.b. WB 4/20/99

April 20, 1999